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February 1, 2024

Via PACER/ECF

The Honorable Rukhsanah L. Singh, U.S.M.J.
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street, Courtroom 7W
Trenton, New Jersey

**Re: *In re: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices
and Product Liability Litig., Case No. 3:16-md-2738 (MAS)/(RLS)***

Dear Judge Singh:

This Firm represents Beasley Allen and Andy D. Birchfield, Jr., Esq. (together Beasley Allen) in the Motion to Disqualify (the Federal Motion) filed by Johnson and Johnson (J&J) in this matter. *See* ECF No. 28760. Your Honor scheduled a hearing on the Federal Motion for February 7, 2024 at 2:00 p.m. J&J filed a nearly identical motion to disqualify Beasley Allen on December 8, 2023 (State Motion)¹ in the New Jersey state talcum powder MCL pending in the Superior Court of New Jersey, Atlantic County. The State Motion is currently pending before the Honorable John C. Porto, P.J.Cv. I write to inform Your Honor of recent developments in the State Motion before Judge Porto in advance of the February 7, 2024 hearing on the Federal Motion.

¹ *See Matter of In Re Talc Based Power Products Litig.*, Docket No. ATL-L-2648-15, MCL Case 300.



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First, consistent with the ethical duty of candor to the Court and for the sake of judicial efficiency, we write to disclose significant developments that have taken place in the State Motion since Your Honor scheduled the Federal Motion hearing. The Federal Motion was fully briefed on December 29, 2023. Since that time, Judge Porto has held two oral arguments on January 17, 2024 and January 23, 2024 in the State Motion. At Judge Porto's request, the parties filed supplemental briefs and fact certifications that provide greater detail on issues related to both Motions. Yesterday, Judge Porto issued an order for a plenary hearing finding: (1) that the expanded record contains disputed material facts; and (2) a plenary hearing necessary to resolve the State Motion. The parties are currently discussing their availability for the plenary hearing. Should Your Honor want to review these papers, we will file them with this Court.

Second, on January 29, 2024, the undersigned asked J&J's counsel to provide any demonstratives that it plans to use at the February 7, 2024 hearing by close of business February 5, 2024. In response, J&J is unwilling to commit to providing demonstratives in advance of the hearing. Trial by ambush is not permitted. Beasley Allen respectfully seeks the Court's guidance and direction as to whether and/or when the parties should exchange any demonstratives and provide same to the Court. We wish to avoid "trial by ambush."

Thank you for your time and consideration of this matter.

Respectfully submitted,

/s/ Jeffrey M. Pollock

JEFFREY M. POLLOCK

cc: All Counsel (via ECF)